IN THE COURT OF THE LOKPAL (OMBUDSMAN),

ELECTRICITY, PUNJAB,

66 KV GRID SUB-STATION, PLOT NO. A-2,

INDUSTRIAL AREA, PHASE-1, S.A.S NAGAR (MOHALI)

Appeal No. 52 / 2017 Date of Order : 26.12.2017

Indus Tower Ltd,

Patiala.

....Petitioner

Account No. 3001177587

*Through:*

Shri Tarsem Chand Dhammi, Petitioner’s Representative (PR)

Versus

Punjab State Power Corporation Limited

…..Respondent

*Through:*

Er. Gurpreet Singh,

Sr. Executive Engineer,

DS Model Town Division ,

PSPCL, Patiala.

Appeal No. 52/2017 dated 24.08.2017 was filed against order dated 17.07.2017 in Case no. CG-113 of 2017 of the Consumer Grievances

Redressel Forum (Forum) which decided that:

*“The bill issued to the Petitioner for the month of 12/2016 is for actual consumption recorded by the meter of the Petitioner and is chargeable”.*

2. Arguments, discussions and evidence on record were held on 26.12.2017.

3 Shri Tarsem Chand Dhammi, Petitioner Representative (PR) attended the Court proceedings on behalf of the Petitioner. Er. Gurpreet Singh, Sr. Executive Engineer/DS Model Town Division, Patiala, appeared on behalf of the Respondent - Punjab State Power Corporation Limited (PSPCL).

4. Presenting the case on behalf of the Petitioner, Shri Tarsem Chand Dhammi, Petitioner’s Representative (PR) stated that the Petitioner was having a Non Residiential Supply connection with Sanctioned Load of 14.560kW and the Metering was done by providing Three Phase-Four Wire, 10-60Amp, Whole Current Energy Meter.

PR further stated that the Petitioner received the bill for the period from 21.10.2016 to 15.12.2016 amounting to Rs. 1,07,430/- against consumption of 13288 units which was more than the normal consumption since the installation of the connection.

PR further stated the Petitioner challenged the Energy Meter as it was running very fast. The Energy Meter was checked by the JE on 19.12.2016 and recorded the reading of Energy Meter as 278894kWH. The Energy Meter was changed on dated 24.12.2016 i.e. after five days when the reading was 279675kWH. It showed that 681 units were recorded by the Energy Meter within 5 days (279675 - 278894 = 681) and average consumption recorded by the Energy Meter was (681/5) i.e. 136 units per day.

PR contended that on the other side, the new Energy Meter was installed on 24.12.2016 when the reading was 00001. When the reading was taken by the Respondent on 14.02.2017 (for the period from 24.12.2016 to 14.02 2017 i.e. 53 days), reading was 1974kWH. Thus, the Energy Meter recorded 1973 units of consumption in 53 days giving an average of (1973/53) = 37 units per day which was normal/correct.

PR further stated that the new Energy Meter was recording consumption of 37 units per day while the previous Energy Meter was showing 136 units per day. It was clear that the old Energy Meter had jumped. PR added that the Energy Meter was not checked in the presence of authorized representative of the Petitioner and DDL had not been taken by the M.E. Lab, from which it could be known as to when the Energy Meter had jumped.

PR requested to get checked the consumption data of the last three years or from the date of installation of new Energy Meter which showed that the consumption was not more than 4000 to 5000 units bi-monthly.

The Petitioner approached the ZDSC which decided that the bill was correct. The Petitioner was not satisfied with the said decision and approached the Forum which decided the case vide Order dated 17.07.2017 that the bill issued for the month of 12/2016 was for actual consumption recorded by the Energy Meter and was chargeable. Not satisfied the above decision of the Forum, the Petitioner had filed an Appeal in this Court.

PR requested this Court for issuing directions to the Respondent for overhauling the account of the Petitioner based on the consumption of corresponding months as per rules of PSPCL and give relief of amount which had been wrongly charged in the disputed bill.

5. Defending the case on behalf of the Respondent – PSPCL, Er. Gurpreet Singh, Sr. Executive Engineer/DS Model Town Division, PSPCL, Patiala, stated that the Petitioner filed a Petition regarding excessive consumption shown in the bill for the period from 21.10.2016 to 15.12.2016 in the Zonal Dispute Settlement Committee. The Committee decided the case in favour of PSPCL, stating that the consumption of 13288 units was recorded for the period from 21.10.2016 to 15.12.2016. The bills previously issued were against ‘O’ Code and the accuracy of the Energy Meter was also found to be correct by ME Lab. Further, the Petitioner had filed a case before the Forum bearing no. CG-113 of 2017 and the same was decided in favour of PSPCL by stating as under:

"*Keeping in view the MCO, ME Lab report and record, the forum decided that the bill issued to the petitioner for the month of 12/2016 is for actual consumption recorded by the meter of petitioner and the amount is chargeable.* "

The Respondent further stated that the consumption of 13288 units was recorded due to fast running of the Energy Meter because the consumption recorded during the disputed period was 136 units per day but, after replacement of the Energy Meter, the consumption recorded per day was 37 units, on which basis, the consumer had filed the case in the Forum.

The Respondent contended that the consumption of the disputed period found to be correct, according to the consumption data, load checking report and ME Lab report. The amount so charged for Rs. 1,07,430/- was chargeable because the consumption was correctly recorded on and the accuracy of the Energy Meter was found to be correct by M.E. Lab.

The Respondent prayed to dismiss the Appeal.

**Decision**

6. The relevant facts of the case are that the Petitioner was having a Non-Residential Supply Connection in the name of Indus Tower Limited with Sanctioned Load of 14.560kW bearing Account No. 3001177587. The Metering was done by providing Three Phase-Four Wire, 10-60Amp Whole Current Energy Meter. The Petitioner received a bill dated 15.12.2016, for the period from 21.10.2016 to 15.12.2016, for consumption of 13,288 units amounting to Rs. 1,07,430/-. The Petitioner challenged the Energy Meter on 19.12.2016 and the same was replaced on 24.12.2016 at Reading of 279675kWH. The disputed Energy Meter was checked in M.E. Lab which reported that its accuracy was within the limit.

The connected load of the Petitioner’s connection was also checked on 03.07.2017 by AE/DS Sub Division, PSPCL, Patiala, who found that the total connected load was within the limit of Sanctioned Load. The Petitioner filed a Petition, challenging the disputed bill in the ZDSC which, after hearing both the sides, decided on 21.03.2017 that the bill was prepared on the basis of actual consumption recorded by the Energy Meter and was correct. Aggrieved with the above decision of the ZDSC, the Petitioner approached the Forum which, vide order dated 17.07.2017, upheld the decision of the ZDSC. Not satisfied with the decision of the Forum, the Petitioner has filed an Appeal in this Court.

I have gone through the written submissions made in the Petition by the Petitioner and written reply of the Respondent as well as the oral arguments made by the Representatives of the Petitioner and the Respondent along with the material brought on record by both the sides. The issue requiring adjudication is the legitimacy of the amount billed for Rs. 1,07,430/- on account of consumption of 13,288 units for a period of 56 days i.e. from 21.10.2016 to 15.12.2016.

*My findings on the points emerged and deliberated are as under:*

1. PR argued that the Petitioner received the bill dated 15.12.2016 for the period from 21.10.2016 to 15.12.2016 amounting to Rs. 1,07,430/- based on the consumption of 13,288 units recorded by the Energy Meter. The Petitioner considered this consumption, giving an average of 237 units per day, on higher side as compared to the consumption during the preceding period and challenged the Energy Meter on 19.12.2016, and the same was replaced, after five days, on 24.12.2016. PR stated that the consumption recorded by the Energy Meter, during the intervening period i.e. 19.12.2016 to 24.12.2016, was 681 units giving an average of 136 units per day. PR further stated that after installation of new Energy Meter on 24.12.2016, the consumption recorded for the period 24.12.2016 to 14.02.2017 (53 days), the consumption recorded was 1973 units giving an average daily consumption of 37 units.

PR also argued that a study of details of energy consumption recorded/billed during the last 4-5 years would show that the same was very less as compared to the consumption during the disputed period. Hence, it was clear that the Energy Meter had jumped and the consumption shown by the challenged Energy Meter was not genuine.

The Respondent contested the plea of the PR and stated that the disputed bill was for the actual energy recorded by the Energy Meter and the bills prior to the disputed bill were against ‘O’ Code.

*I have gone through the Consumption Data supplied by the Respondent for the months from 03/2012 to 06/2017and observed that the maximum consumption during the pre-disputed period was 7888 units (reading date 27.09.2012) and the minimum consumption was 2765 units (reading date 12.04.2016). I also find that the consumption during the post-disputed period ranged from 1973 units ( reading date 14.02.2017) to 2900 units (reading date 13.06.2017)*. *This leads to the conclusion that the consumption recorded by the disputed Energy Meter was on the higher side.*

1. PR also contended that the disputed Energy Meter had jumped and was defective. Besides, DDL of the same was not taken by the Respondent due to which, the date from which the disputed Energy Meter had jumped, could not be ascertained.

The Respondent in its defence, contended that that the accuracy of the challenged Energy Meter was found to be within limits by M.E. Lab and as per load checking, conducted by the AEE, the connected load was found in line with the Sanctioned Load. Therefore, the disputed bill was on actual basis and recoverable .

*I observe that the Energy Meter challenged by the Petitioner was having optical port from where, the data of Energy Meter could be retrieved. This data could prove jumping of the Energy Meter reading, if any. I find that the Respondent failed to get the data downloaded either at site or in M.E. Lab. I also observe that the Respondent did not get the consent, in writing, of the Petitioner at the time of sending the challenged Energy Meter to M.E. Lab for testing, which in turn, was not done in the presence of the Petitioner or its representative as laid down in Regulation 21.3.6 (e) of Supply Code-2014, which reads as under:*

**“21.3.6 (e):** In case the testing of a meter removed from the consumer premises in the licensee’s laboratory, the consumer would be informed of the proposed date of testing through a notice at least three (3) days in advanced. In such cases, the seals shall be removed/broken in the presence of the consumer or his/her authorized representative and testing undertaken in the laboratory of the distribution licensee or any accredited laboratory within fifteen (15) days from the date of removal of meter from consumer’s premises. However, such testing can be carried out by the distribution licensee in the absence of consumer if he/she fails to associate with testing even after issue of two registered reminders or he/she gives his/her written consent for such testing without his/her presence. The signature of the consumer, or his authorized representative, if present, would be obtained on the test results sheet and a copy thereof supplied to the consumer. If the meter is found to be inaccurate or tampered, the same shall be re-packed & sealed and kept in safe custody till disposal of case in order to preserve evidence.”

*I also observe that the Respondent admitted this lapse, during the course of hearing and stated to this effect in writing on being directed by this Court, vide its Memo no. 5044 dated 26.12.201.*

*It proves beyond doubt that the Respondent in getting the DDL of the Energy Meter done and also not getting it tested in ME Lab in the presence of the Petitioner or its representative. Thus, this Court is constrained to treat the disputed Energy Meter as defective (other than inaccurate) Energy Meters in terms of provisions contained in Regulation 21.5.2 of Supply Code-2014 which lays down as under:*

***“21.5.2: Defective (other than inaccurate)/Dead***

***Stop/Burnt/Stolen Meters:***

*“The accounts of a consumer shall be overhauled/billed for the period meter remained defective/dead stop and in case of burnt/stolen meter for the period of direct supply subject to maximum period of six months as per procedure given below:*

1. *On the basis of energy consumption of corresponding period of previous year.”*

**As a sequel of above discussions, it is concluded that the account of the Petitioner should be overhauled on the basis of energy consumption of the corresponding period of the previous year. Accordingly, the Respondent is directed to re-calculate the demand and refund/recover the amount excess/short, after adjustment, if any, without any interest.**

7. The Appeal is disposed off accordingly.

8. In case, the Petitioner or the Respondent (Licensee) is not satisfied with the above decision, they are at liberty to seek appropriate remedy against this order from the appropriate Bodies in accordance with Regulation 3.28 of Punjab State Electricity Regulatory Commission (Forum and Ombudsman) Regulations – 2016.

( VIRINDER SINGH)

LokPal (Ombudsman)

Place: S.A.S. Nagar (Mohali) Electricity, Punjab,